
SENATE BILL No. 535

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-7-2.

Synopsis: Worker's compensation advisory board. Establishes the worker's compensation advisory board. Specifies that the advisory board is subject to the open door law and public records act. Reassigns the duties of the worker's compensation rating bureau to the advisory board, the department of insurance, and the commissioner of the department of insurance. Repeals obsolete statutes concerning the powers and duties of the worker's compensation rating bureau.

Effective: July 1, 2005.

Clark

January 20, 2005, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-7-2-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter and
3 unless a different meaning appears from the context:
4 (a) "Department" means the department of insurance of this state.
5 (b) "Worker's compensation board" means the worker's
6 compensation board. ~~of Indiana.~~
7 (c) "Company" means an insurance company and includes all
8 persons, partnerships, corporations, or associations engaged in making
9 worker's compensation insurance under the laws of this state.
10 (d) "Domestic company" means a company organized under the
11 laws of this state.
12 (e) "Foreign company" means a company organized under the laws
13 of any state of the United States, other than this state or under the laws
14 of any territory or insular possession of the United States or the District
15 of Columbia.
16 (f) "Alien company" means a company organized under the laws of
17 any country other than the United States or a territory or insular



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possession thereof or of the District of Columbia.

(g) "Person" includes individuals, corporations, firms, companies, associations, and partnerships. The personal pronoun includes all genders. The singular includes the plural, and the plural includes the singular.

(h) "Commissioner" means the insurance commissioner of this state.

(i) ~~"Bureau"~~ **"Advisory board"** means the worker's compensation ~~rating bureau of Indiana.~~ **advisory board established by section 3 of this chapter.**

(j) "Interested person" means any person who has filed with the department a request to be notified under sections 4(b) and 20.2(c) of this chapter of each filing of rates by the bureau or a company.

(k) "Assigned risk plan" means the plan by which ~~the commissioner, after consultation with the members of the worker's compensation rating bureau provide~~ **advisory board, provides** for the insurance of rejected risks.

(l) "Classification system" or "classification" means the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations, or operations of insurance policyholders.

(m) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(n) "Rate" means the cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums.

(o) "Schedule rating plan" means an independent rating plan that measures hazard differences that have an immediate bearing on the probability or severity of loss and applies debits and credits to modify the premium for a risk.

(p) "Statistical plan" means the plan, system, or arrangement used in collecting data.

(q) "Supplementary rate information" means any manual or plan of rates, classification system, rating schedule, minimum premium, rating rule, rating plan, and any other similar information needed to determine the applicable premium for an insured.

(r) "Supporting information" means the experience and judgment of the filer and the experience or data of other companies or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any

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other similar information required to be filed by the commissioner.

SECTION 2. IC 27-7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) After July 1, 1935; 2005, every insurance company authorized to effect worker's compensation insurance in this state shall be a member of the worker's compensation rating bureau of Indiana: **advisory board**. The ~~bureau shall be~~ **advisory board** is composed of all insurance companies lawfully engaged on July 1, 1935; 2005, wholly or in part in making worker's compensation insurance in Indiana or who shall after July 1, 1935; **be 2005, are** issued a certificate of authority to make worker's compensation insurance in this state.

(b) **Notwithstanding any provision in this chapter to the contrary:**

(1) **the meetings of the advisory board are open to the public under IC 5-14-1.5; and**

(2) **the records of the advisory board are open to the public for inspection and copying under IC 5-14-3.**

SECTION 3. IC 27-7-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. The ~~bureau, in addition to other activities not prohibited;~~ **advisory board** is authorized to do the following:

(1) ~~Develop a statistical plan including class definitions:~~

(2) ~~Collect statistical data from members, subscribers, or any other source:~~

(3) ~~Prepare and distribute rate data, adjusted for loss development and loss trending, in accordance with its statistical plan. Such data and adjustments shall be in sufficient detail so as to permit companies to modify such rates or minimum premiums based on their own rating methods or interpretations of underlying data:~~

(4) ~~Prepare and distribute manuals of rating rules and rating schedules:~~

(5) ~~Distribute information that is filed with the commissioner and open to public inspection:~~

(6) ~~Conduct research and collect statistics in order to discover, identify, and classify information relating to cause or prevention of losses:~~

(7) ~~Prepare and file policy forms and endorsements and consult with members, subscribers, and others relative to their use and application:~~

(8) ~~Collect, compile, and distribute past and current prices of individual companies if such information is made available to the general public:~~

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(9) Conduct research and collect information to determine the impact of benefit level changes on rates.

(10) Prepare and distribute rules and rating values for the experience rating plan. Calculate and disseminate individual risk premium modification.

(11) Assist an individual company to develop minimum premiums, rates, supplementary rate information, or supporting information when so authorized by the individual company.

(1) Analyze, prepare, and recommend to the commissioner rules and rating values for the experience rating plan.

(2) Analyze, prepare, and recommend to the commissioner individual risk premium modification.

(3) Assist the department in providing assistance to an individual company to develop minimum premiums, rates, supplementary rate information, or supporting information, when the commissioner is authorized by the individual company to do so.

(4) Prepare and recommend to the commissioner file policy forms and endorsements and consult with members, subscribers, and other persons concerning the use and application of the file policy forms and endorsements.

SECTION 4. IC 27-7-2-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. The commissioner may do the following:

(1) Develop a statistical plan, including class definitions.

(2) Collect statistical data from advisory board members, subscribers, and other sources.

(3) Prepare and distribute rate data, adjusted for loss development and loss trending, under the statistical plan described in subdivision (1). The data and adjustments must be in sufficient detail to permit companies to modify their rates or minimum premiums based on the companies' own:

(A) rating methods; or

(B) interpretation of the underlying data.

(4) Prepare and distribute manuals of rating rules and rating schedules.

(5) Distribute information that is filed with the commissioner and open to public inspection.

(6) Conduct research and collect statistics in order to discover, identify, and classify information related to the cause or prevention of losses.

(7) Collect, compile, and distribute past and current prices of

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individual companies, if the information is available to the general public.

(8) Conduct research and collect information to determine the impact of benefit level changes on rates.

(9) Consider the recommendation of the advisory board and determine rules and rating values for the experience rating plan.

(10) Consider the recommendation of the advisory board and determine individual risk premium modifications.

(11) After consultation with the advisory board, prepare and file policy forms and endorsements and consult with members, subscribers, and other persons concerning the use and application of the file policy forms and endorsements.

(12) Assist an individual company in developing minimum premium rates, supplementary rate information, or supporting information when authorized by the individual company to do so.

(13) Exercise all powers necessary, convenient, or appropriate to carry out:

(A) the duties listed in subdivisions (1) through (12); or

(B) the purposes of this chapter.

SECTION 5. IC 27-7-2-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.2. (a) At least once each calendar year the advisory board shall recommend, subject to the commissioner's approval, minimum premiums and rates for worker's compensation insurance.

(b) Adequate proof must accompany each recommendation under subsection (a) that notice of the recommendation was mailed by first class United States mail to each interested person at the address shown on the department's records.

SECTION 6. IC 27-7-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The management of said bureau shall be in the hands of duly elected officers or committees provided for in the bylaws of said bureau; commissioner manages and serves as the chair of the advisory board. Each:

(1) member of the bureau advisory board; or

(2) member group with affiliate or subsidiary companies;

shall be entitled to only one (1) vote on any subject coming before the bureau advisory board for determination.

SECTION 7. IC 27-7-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. Stock companies and nonstock

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1 companies shall be represented in the ~~bureau~~ **advisory board**
 2 management and on all committees. In case of a tie vote in any
 3 committee or governing body of ~~said bureau~~, **the advisory board**, the
 4 insurance commissioner shall decide the matter.

5 SECTION 8. IC 27-7-2-8 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2005]: Sec. 8. The ~~bureau~~ **shall advisory board**
 7 **must** admit to membership every company lawfully engaged in whole
 8 or in part in writing worker's compensation insurance in Indiana.

9 SECTION 9. IC 27-7-2-9 IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2005]: Sec. 9. The charges and expenses
 11 incident to the establishment and operation of the ~~bureau~~ **shall be**
 12 **advisory board are** borne equitably and without discrimination among
 13 the members of the ~~bureau~~, **advisory board**. If any member is
 14 aggrieved by an apportionment of the cost or costs made by the ~~bureau~~
 15 **advisory board** or by failure of the ~~bureau~~ **advisory board** to make
 16 such equitable apportionment, it may in writing petition the
 17 commissioner for a review of such apportionment or failure to act. The
 18 commissioner shall upon not less than five (5) days' notice to each
 19 member hold a hearing upon such petition at which time all members
 20 shall be entitled to be heard. And said commissioner shall determine
 21 the matter or matters and mail a copy of his decision to each member
 22 of the ~~bureau~~, **advisory board**. The decision of the commissioner shall
 23 be final.

24 SECTION 10. IC 27-7-2-12 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The department
 26 may authorize any person to:

- 27 (1) attend meetings of the ~~rating bureau~~, **advisory board**;
- 28 (2) hold hearings;
- 29 (3) make investigations; and
- 30 (4) make examinations;

31 with reference to any subject over which it has jurisdiction under this
 32 chapter. The person so appointed shall have all the powers of the
 33 department in relation to said hearings, investigations, or examinations,
 34 and shall report in writing to the department the results of such
 35 hearings, examinations, or investigations, and any testimony taken by
 36 ~~him~~, **the person**.

37 SECTION 11. IC 27-7-2-15 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. The department
 39 shall after consultation with members of the ~~bureau~~ **advisory board**
 40 and after investigation approve a system of schedule rating for use in
 41 this state. Only the system ~~filed by the bureau~~ and approved by the
 42 department may be used in Indiana.

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SECTION 12. IC 27-7-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) Every company shall adhere to manual rules, policy forms, a statistical plan, a classification system, and experience rating plan ~~filed by the bureau~~ **and** approved by the commissioner.

(b) The commissioner ~~shall~~ **may** designate the ~~bureau~~ **advisory board** to assist in gathering, compiling, and reporting relevant statistical information. Every company shall record and report its worker's compensation experience to the ~~bureau~~ **advisory board** according to the statistical plan approved by the commissioner. The report shall include any deviation from the ~~filed~~ **recommended** ~~approved~~ minimum premiums and rates, in total and by classification. The ~~bureau~~ **department** shall annually ~~submit~~ **compile** data concerning these deviations. ~~to the department.~~ Upon receipt, the department shall evaluate the data and prepare a report concerning the effect of competitive rating in Indiana. The department shall make the report available not later than October 31 of each year.

(c) Every company shall adhere to the approved manual rules, policy forms, statistical plan, classification system, and experience rating plan in the recording and reporting of data to the ~~bureau~~ **department.**

(d) Copies of all approved classifications, rules, and forms shall be provided to the worker's compensation board.

SECTION 13. IC 27-7-2-20.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.2. (a) Every company and the ~~bureau~~ **advisory board** shall file with the commissioner all minimum premiums, rates, and supplementary rate information that are to be used in Indiana. Such minimum premiums, rates, and supplementary rate information must be submitted to the commissioner at least thirty (30) days before the effective date. The commissioner shall disapprove a filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed approved unless disapproved by the commissioner within thirty (30) days after the filing is made. A company may adopt by reference, with or without deviation, the minimum premiums, rates, and supplementary rate information filed by another company or by the ~~bureau~~ **department.**

(b) Minimum premiums, rates, and supplementary information filed under this section shall be filed in the form and manner prescribed by the commissioner.

(c) There shall accompany each filing adequate proof that notice of the filing has been mailed, by first class United States mail, to each

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interested person at the person's address as shown on the records of the department.

(d) All information filed under this chapter shall, as soon as filed, be open to the public for inspection and copying under IC 5-14-3.

SECTION 14. IC 27-7-2-20.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.3. (a) Minimum premiums or rates may be disapproved at the following times:

- (1) At any time subsequent to the effective date.
- (2) Before the effective date.

(b) Minimum premiums or rates may be disapproved for any of the following reasons:

- (1) If the company fails to comply with the filing requirements under section 20.2 of this chapter.
- (2) If the commissioner finds that the minimum premium or rate is excessive, inadequate, or unfairly discriminatory.

(c) The following procedure shall be used for disapproval of minimum premiums or rates:

(1) The commissioner may disapprove, without hearing, minimum premiums or rates filed under section 20.2 or 28.1 of this chapter that have not become effective. However, the ~~bureau~~ **advisory board** or a company whose minimum premiums or rates have been disapproved shall be given a hearing upon a written request made within thirty (30) days after the date of the disapproval order.

(2) Every company or the ~~bureau~~ **department** shall provide within Indiana reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which such rating system has been applied in connection with the insurance afforded or offered. If the company or the ~~bureau~~ **department** fails to grant or reject such request within thirty (30) days, the aggrieved person may proceed in the same manner as if the request had been rejected. Any aggrieved person affected by the action of such company or the ~~bureau~~ **department** on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner who, after a hearing held upon not less than ten (10) days written notice to the aggrieved person and to such company or the ~~bureau~~ **department**, may affirm, modify, or reverse such action.

(d) If the commissioner disapproves a minimum premium or rate, the commissioner shall issue an order specifying in what respects minimum premium or the rate fails to meet the requirements of this chapter and stating when within a reasonable period thereafter such

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1 minimum premium or rate shall be discontinued for any policy issued
 2 or renewed after a date specified in the order. The order shall be issued
 3 within thirty (30) days after the close of the hearing or within such
 4 reasonable time extension as the commissioner may fix. Such order
 5 may include a provision for premium adjustment for the period after
 6 the effective date of the order for policies in effect on such date.

7 (e) Whenever a company has no legally effective minimum
 8 premiums or rates as a result of the commissioner's disapproval of
 9 minimum premiums or rates or other act, the commissioner shall
 10 specify interim minimum premiums or rates for the company that are
 11 adequate to protect the interests of all parties and may order that a
 12 specified portion of the premiums be placed in an escrow account
 13 approved by the commissioner. When new minimum premiums or rates
 14 become legally effective, the commissioner shall order the escrowed
 15 funds or any overcharge in the interim minimum premiums or rates to
 16 be distributed appropriately, except that refunds of less than ten dollars
 17 (\$10) per policyholder shall not be required.

18 SECTION 15. IC 27-7-2-20.4 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.4. (a) A company or
 20 the ~~bureau~~ **department** may not make any arrangement with any other
 21 company or other person that has the purpose or effect of restraining
 22 trade unreasonably or of substantially lessening competition in the
 23 business of insurance.

24 (b) A company may not agree with any other company or the ~~bureau~~
 25 **department** to adhere to or use any rate, rating plan (other than the
 26 experience rating plan), or rating rule except as needed to comply with
 27 the requirements of section 20 of this chapter.

28 (c) The fact that two (2) or more companies use consistently or
 29 intermittently the same rules, rating plans, rating schedules, rating
 30 rules, policy forms, rate classifications, underwriting rules, surveys, or
 31 inspections or similar materials is not sufficient in itself to support a
 32 finding that an agreement prohibited by subsection (b) exists.

33 (d) Two (2) or more companies having a common ownership or
 34 operating in Indiana under common management or control may act in
 35 concert between or among themselves with respect to any matters
 36 pertaining to those authorized in this chapter as if they constituted a
 37 single company.

38 SECTION 16. IC 27-7-2-28 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. ~~From and after July~~
 40 ~~1, 1935; After June 30, 2005~~, all insurance companies authorized to
 41 effect worker's compensation insurance in this state, and being
 42 members of the worker's compensation ~~rating bureau~~ **advisory board**

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of Indiana, shall insure and accept any worker's compensation risk tendered to and rejected in writing by any three (3) members of the ~~bureau~~ **advisory board** in the manner provided in this chapter.

SECTION 17. IC 27-7-2-28.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.1. (a) All companies authorized to write worker's compensation insurance shall participate in the assigned risk plan providing for the equitable apportionment among them of insurance that may be afforded to applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. The ~~bureau~~ **department** shall ~~file~~ **prepare and make publicly available**, at least thirty (30) days before their effective date, the plan of operation, rates, rating plans, rules, policy forms, and any future modifications thereof, with the commissioner for approval. Such rates shall reflect experience in the assigned risk plan to the extent it is actuarially appropriate. The rates must reflect the varied categories of rejected risks covered by the assigned risk plan and must include at least two (2) rating plans, one (1) of which may not exceed the recommended minimum premiums and rates ~~filed by the bureau~~ **determined by the commissioner** under ~~section 4~~ **section 4.2** of this chapter.

(b) The commissioner ~~shall disapprove~~ **may not approve** any filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed to meet such requirements unless disapproved by the commissioner within thirty (30) days after the filing is made. In disapproving a filing made under this section, the commissioner shall have the same authority and follow the same procedure as in disapproving a filing under section 20.3 of this chapter.

SECTION 18. IC 27-7-2-28.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.2. (a) The commissioner may examine any company, the ~~bureau~~ **advisory board**, or the assigned risk plan as the commissioner considers necessary to ascertain compliance with this chapter.

(b) Every company, the ~~bureau~~ **advisory board**, and the assigned risk plan shall maintain reasonable records of the type and kind reasonably adapted to its method of operation containing its experiences or the experience of its staff members including the data, statistics, or information collected or used by it in its activities. These records shall be available at all reasonable times to enable the commissioner to determine whether the activities of the ~~bureau~~ **advisory board**, company, and the assigned risk plan comply with this chapter. Such records shall be maintained in an office within Indiana or shall be made available to the commissioner for examination or

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inspection at any time upon reasonable notice.

(c) The reasonable cost of an examination made under this section shall be paid by the examined party upon presentation of a detailed account of such costs.

(d) Instead of an examination the commissioner may accept the report of an examination by the insurance supervisory official of another state, made under the laws of that state.

SECTION 19. IC 27-7-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) When any such rejected risk is called to the attention of the worker's compensation board and it appearing to the board that said risk is in good faith entitled to coverage, ~~said bureau~~ **the commissioner** upon the order of the board shall fix the initial premium for the coverage.

(b) Upon payment, of the premium fixed under subsection (a), the ~~bureau commissioner~~ shall designate a member of ~~said bureau~~ **the advisory board** whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor. However, for this undertaking all members of ~~said bureau~~ **the advisory board** shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by such member bears to the total compensation insurance written in this state during the preceding year by all members of ~~said bureau~~ **the advisory board**.

SECTION 20. IC 27-7-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. The ~~bureau~~ **department** shall ~~by July 31, 1935,~~ make and adopt such rules as may be necessary to carry out the provisions of this chapter, subject to the approval of the insurance commissioner.

SECTION 21. IC 27-7-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. ~~No~~ **An** employer who does not pay the advance premiums or premium when due, ~~shall be is not~~ entitled to insurance, nor shall any coverage be extended until all obligations to pay worker's compensation insurance premiums contracted during the previous twelve (12) months have been paid. If, in the opinion of the designated carrying company or the ~~bureau~~ **commissioner**, physical or moral conditions exist in any risk which shall preclude the risk from obtaining insurance, that risk shall be reported to the worker's compensation board and to the department. The ~~bureau department~~ shall, in those cases, furnish the board and the ~~department~~ **commissioner** with its recommendations for improving safety conditions, which, if complied with, would entitle the risk to insurance. Pending a decision by the board or the department,

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1 insurance shall be effective as otherwise provided in this chapter.
 2 However, the board or the department, or both shall make that decision
 3 within sixty (60) days after such recommendations are furnished by the
 4 ~~bureau~~ **department**.

5 SECTION 22. IC 27-7-2-32 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. In designating the
 7 ~~bureau~~ **advisory board** member to insure a rejected risk, the ~~bureau~~
 8 **department** shall have due regard for the service facilities and
 9 compensation premium volume in Indiana of the member so designated
 10 as the carrying company. Any grievance on the part of ~~such bureau~~ **the**
 11 **advisory board** member with the respect of such designation shall be
 12 brought to the attention of the ~~bureau~~ **commissioner** for review and
 13 such action as the circumstances may justify.

14 SECTION 23. IC 27-7-2-33 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. At any time while
 16 a policy, written pursuant to designation by the ~~bureau~~ **department** is
 17 in force, the carrying company, upon its own initiative, may make a
 18 further careful inspection of the risk for the purpose of measuring its
 19 hazards, making recommendation for the promotion of the safety of
 20 employees and determining the rate or rates which should apply to
 21 insurance issued in renewal of such policy. Rates for the renewal of any
 22 policy issued pursuant to this chapter shall take into account the
 23 available experience of the risk for the previous five (5) years, and such
 24 rates shall be made in contemplation of the facts disclosed by the most
 25 recent inspection of the risk by the ~~rating bureau~~ **department** as
 26 provided in this chapter, subject to the approval of the department.

27 SECTION 24. IC 27-7-2-34 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. The ~~management~~
 29 ~~of the bureau~~ **department** shall furnish to all members of the ~~bureau~~
 30 **advisory board** complete information concerning each rejected risk
 31 and any member of ~~such bureau~~ **the advisory board** may write any
 32 rejected risk as regular business in which event the risk so written shall
 33 no longer be treated as provided for in section 29 of this chapter. If, at
 34 expiration, the risk is still uninsured on voluntary basis, it shall
 35 automatically be insured as provided in section 29 of this chapter.

36 SECTION 25. IC 27-7-2-35 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. The ~~bureau~~
 38 **department** shall keep a record of all risks referred to members as
 39 carrying company, coming within the provisions of section 29 of this
 40 chapter, and this record shall be open to any ~~bureau~~ **advisory board**
 41 member or its authorized representative. Any member may at any time
 42 write as regular business any risk which is carried by any other member

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as a carrying company, under the provisions of section 29 and such carrying company shall cancel such policy on a pro rata premium basis or thereafter carry such risk in its entirety as regular business.

SECTION 26. IC 27-7-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) If, after the issuance of a policy, it develops that an employer is not or ceases to be in good faith entitled to compensation insurance, the carrying company which issued the policy shall have the right, upon authorization of the ~~bureau~~ **department** and the worker's compensation board, to cancel the insurance in accordance with the conditions of the policy.

(b) If a policy is cancelled under the circumstances described in subsection (a), the risk shall not be assigned again by the ~~bureau~~ **department** to any of ~~its~~ **the advisory board** members as a carrying company until it is fully satisfied that the employer is entitled to insure as a proper rejected risk under this chapter.

(c) In the event of a cancellation under this section, the facts justifying such action shall be referred to the worker's compensation board and the department.

SECTION 27. IC 27-7-2-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) A person who fails to comply with this chapter or fails to comply with any lawful order or ruling made by the department in the administration of this chapter commits a Class C infraction. If a person is fined for violating this section and fails to pay the fine within thirty (30) days after final judgment, the insurance commissioner shall suspend the license of the person to transact any form of insurance business in Indiana until the fine and costs incident to the final judgment are paid in full.

(b) The commissioner may, if the commissioner finds that any person or organization has violated this chapter, impose a penalty of not more than one thousand dollars (\$1,000) for each such violation but if the commissioner finds the violation is willful the commissioner may impose a penalty of not more than ten thousand dollars (\$10,000) for each such violation. These penalties are in addition to any other penalty provided by law.

(c) For purposes of this section, any company using a rate for which the company has failed to file the rate, supplementary rate information, or supporting information, as required by this chapter, shall have committed a separate violation for each day such failure continues.

(d) The commissioner may suspend or revoke the license of ~~the bureau or~~ any company that fails to comply with an order of the commissioner within the time limit specified by such order, or any extension of time that the commissioner may grant.

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1 (e) The commissioner may determine when a suspension of license
2 becomes effective and it shall remain in effect for the period fixed by
3 the commissioner, unless the commissioner modifies or rescinds such
4 suspension, or until the order upon which such suspension is based is
5 modified, rescinded, or reversed.

6 (f) No penalty shall be imposed and no license shall be suspended
7 or revoked except on a written order of the commissioner, stating the
8 commissioner's findings, made after a hearing.

9 SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE
10 JULY 1, 2005]: IC 27-7-2-4; IC 27-7-2-6; IC 27-7-2-25.

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